

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

KEITH ABDUL JENNINGS,)	
)	
Petitioner)	
)	
v.)	Cause No.: 3:09-CV-427
)	(arising out of 3:06-CR-71(01)RM)
UNITED STATES OF AMERICA,)	
)	
Respondent)	

OPINION AND ORDER

The court construes Keith Jennings’ notice of appeal challenging the court’s May 12, 2011 order denying his petition under 28 U.S.C. § 2255, as a motion for leave to proceed *in forma pauperis* on appeal and for a certificate of appealability.

Issuance of a certificate of appealability requires the court to find that Mr. Jennings has made “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). This means he must show “that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” Miller-El v. Cockrell, 537 U.S. at 336. For the reasons stated in the Opinion and Order of May 12, 2011 denying his habeas petition, Mr. Jennings is far from meeting that burden. Accordingly, the court appeals his motion for a certificate of appealability.

Federal Rule of Appellate Procedure 24(a)(3) provides that a financially indigent person may be permitted to proceed on appeal *in forma pauperis* unless

the court “certifies that the appeal is not taken in good faith.” In other words, the court must decide “that a reasonable person could suppose that the appeal has some merit.” Walker v. O’Brien, 216 F.3d 626, 632 (7th Cir. 2000). Because no reasonable person could find that Mr. Jennings’ appeal has any merit, the court concludes that his appeal is not taken in good faith, and his request for pauper status must be denied.

Based on the foregoing, Mr. Jennings’ motion for leave to proceed *in forma pauperis* on appeal and for a certificate of appealability is DENIED.

SO ORDERED.

ENTERED: June 6, 2011

/s/ Robert L. Miller, Jr.
Judge
United States District Court

cc: K. Jennings
R. Truitt
D. Jones
W. Grimmer/J. Maciejczyk